

CHAPTER 1

GENERAL PROVISIONS

ARTICLE I. DEFINITIONS

Sec. 1-1. How Code designated and cited.

The provisions embraced in the following chapters and sections shall constitute and be designated the "Waukesha County Code" and may be so cited.

State law reference - Authority to codify, Wis. Stat. § 66.035.

Sec. 1-2. Rules of construction and definitions.

In the construction of this Code, and of all ordinances, resolutions and motions the rules and definitions set out in this section shall be observed unless such construction would be inconsistent with the manifest intent of the county board of supervisors. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the county board of supervisors may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Code. The words "Code" or "this Code" shall mean the Waukesha County Code as designated in section 1-1. The words "the county" or "this county" shall mean the County of Waukesha in the State of Wisconsin.

County board of supervisors. The words "county board" or "county board of supervisors" shall mean the Board of Supervisors of Waukesha County, Wisconsin.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provisions or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

May. The word "may" shall be construed as being permissive.

Month. The word "month" shall mean a calendar month.

Must. The word "must" shall be construed as being mandatory.

Nontechnical and technical words. Words and the phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers and employees generally. Whenever any officer or employee is referred to by title, such as "county clerk" or "sheriff," such reference shall be construed as if followed by the words "of Waukesha County."

Owner. The word "owner," applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The words "personal property" includes every species of property except real property, as herein described.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real property. The words "real property" shall include lands, tenements and hereditaments.

Shall. The word "shall" shall be construed as being mandatory.

Signature or subscription. A signature or subscription includes a mark when the person cannot write.

State. The words "the state" or "this state" shall mean the State of Wisconsin.

Tenant or occupant. The words "tenant" or "occupant" applied to a building or land, shall include any person holding a written or oral lease who occupies the whole or a part of such buildings or lands, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written or in writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

State law reference - Similar rules of statutory construction, Wis. Stat. §§ 990.001, 990.01.

Sec. 1-3. Computation of time.

(a) The time within which an act is to be done or a proceeding is to be had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.

(b) If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.

(c) When the last day within which a proceeding is to be had or taken or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or of the county, city, village, town, school district or other subdivision of the state, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report, notice or other document is required to be filed, do not include any office hours thereof on such Saturday, said proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.

(d) Regardless of whether the time limited in any ordinance for the holding of any proceeding or the doing of an act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.

(e) "Legal holiday" as used in this section means any statewide legal holiday provided in Wisconsin Statutes section 895.20. When an act is permitted to be done by the use of the postal service, and the last day within the time prescribed by law for performing such act falls on a legal public representation of words, letters or figures, whether holiday under federal law, or other holiday designated by the president such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

State law reference - Similar provisions, Wis. Stat. § 990.001(4).

Sec. 1-4. Legislation not affected by Code.

(a) Nothing in this Code or in the ordinance adopting this Code shall affect any ordinance, resolution or motion:

1. Providing for the width of specific highways;
2. Authorizing the sale or purchase of specific chattel or real property;
3. Authorizing the execution of any contract;
4. Providing for job classifications or descriptions;
5. Providing for the compensation of any county officer or employee;
6. Endorsing, recommending or opposing any state legislation;
7. Dealing with zoning, subdivisions, shoreland and floodland protection or airport zoning;
8. Dealing with the annual budget;
9. Providing for an annual tax levy on real estate;
10. Providing for an appropriation or transfer of funds;
11. Including roads in or excluding roads from the county road system;
12. Establishing speed zones or speed limits or otherwise establishing traffic regulations for specific loads;
13. Appointing specific individuals to offices or positions;
14. Dealing with bond issues;
15. Granting a franchise or special permit;
16. Amending the Waukesha County Public Health Code;
17. Adopted on or before May 6, 1940;
18. That is temporary although general in effect;
19. That is special although permanent in effect;
20. The purpose of which has been accomplished.

(b) The provisions referred to in subsection (a) of this section are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-5. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or in the ordinances adopting or amending this Code shall affect any

offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or allowing any use or the continuance of any use of a structure or premises in violation of any ordinance of the county in effect on the date of adoption of this Code.

State law reference - Similar rule of construction for state code, Wis. Stat. § 991.03.

Sec. 1-6. Provisions as continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the county relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

State law reference - Similar rule of construction for state statutes, Wis. Stat. § 991.08.

Sec. 1-7. Catchlines of sections; references to Code; history notes, etc.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the title of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

State law reference - Similar rule of construction for state code, Wis. Stat. § 990.001(6).

(b) References in this Code to chapters, articles, divisions or sections are to chapters, articles, divisions or sections of this Code unless stated otherwise.

(c) Editor's notes, cross references and references to the Wisconsin Statutes that appear in footnotes to this Code are for reference purposes only and are not part of this Code.

(d) History notes appearing at the end of sections of this Code are for reference purposes only and are not part of this Code.

Sec. 1-8. Amendments to Code.

(a) All ordinances, resolutions, or motions passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. Repealed chapters, sections, subsections or any part thereof may be excluded from the Code by omission from reprinted pages affected thereby. Subsequent provisions, as numbered and printed, or omissions in the case of repeal, shall be prima facie evidence of them until such time as this Code and subsequent provisions numbered or omitted are readopted as a new code by the county board of supervisors.

(b) Amendments to this Code may be made by specific reference to the section number of this Code in substantially the following language: "Section _____ of the Waukesha County Code is hereby amended to read as follows: . . ." The new provisions shall then be set out in full as desired.

(c) In the event a new section is to be added to this Code, the following language may be used: "The Waukesha County Code is hereby amended by adding a new section that reads as follows: . . ." The new section shall then be set out in full as desired.

(d) The Corporation Counsel shall be the official revisor and editor of the Code and he, or his designee, is authorized to revise this Code in accordance with any enrolled ordinance. This shall include the ability to change statutory references when said references are affected by subsequent legislation as well as to change numbering, lettering, organization, or formatting of enrolled ordinances or Code sections as well as cross-references within enrolled ordinances or Code sections.

Sec. 1-9. Effect of repeal of ordinance, resolution, etc.

(a) When any ordinance, resolution or motion repealing a former ordinance, resolution, motion, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, resolution, motion, clause or provision unless it shall be therein expressly provided.

(b) The repeal of an ordinance, resolution or motion shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance, resolution or motion repealed.

State law reference - Similar rule of statutory construction, Wis. Stat. §§ 990.03, 991.03.

Sec. 1-10. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code.